



**Hamilton County Prosecuting Attorney  
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**FOR IMMEDIATE RELEASE  
Tuesday, August 20, 2013  
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**HAMILTON COUNTY PROSECUTOR JOSEPH T. DETERS AND  
ACTING CINCINNATI POLICE CHIEF PAUL H. HUMPHRIES  
ANNOUNCE NO CHARGES AGAINST CLERK IN MONTGOMERY  
ROAD STORE SHOOTING.**

Today, Hamilton County Prosecutor Joseph T. Deters and Acting Cincinnati Police Chief Paul H. Humphries announced that the Hamilton County Grand Jury ignored possible charges against the store clerk in the August 4<sup>th</sup> shooting at the L M & N store located at 5640 Montgomery Road.

22 year-old Omar Magdy Abouelialla was shot by the clerk working at the store that night. Abouelialla entered the store at approximately 8:46 p.m. Store video shows Abouelialla driving up to the store on his motorcycle and entering the store while still wearing his motorcycle helmet. His face is totally obscured by his helmet and visor. Video shows Abouelialla walking directly toward the counter and opening the gate behind the counter to approach the store clerk. The clerk is near the cash register and wall of the store with no way to exit the store other than by passing Abouelialla. Within ten seconds of entering the store and approaching the clerk behind the counter, Abouelialla is shot. The store video does not contain any audio.

The police investigation revealed that Abouelialla was unarmed when he was shot. The investigation also revealed that he worked for a company that sold cigarettes to the L M & N store.

The Hamilton County Grand Jury heard all of the available evidence as well as the law on self defense in Ohio. In Ohio, self defense is proven when all 3 of the following factors are met:

1. The shooter was not at fault in creating the situation;
2. The shooter does not violate a duty to retreat;
3. The shooter had a reasonable fear of serious bodily injury or death and only used force necessary for the situation.

The clerk had been robbed at gun point several times before and the business had been burglarized the week before this shooting by someone wearing a mask.



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In Ohio, there is no duty to retreat in your home (commonly referred to as the “Castle Doctrine”) or if you are in your car. Ohio is not a “Stand Your Ground” state. In “Stand Your Ground” states, there is no duty to retreat at any time.

Family, friends and co-workers described Mr. Aboueliallya as a nice person with no criminal history. Co-workers said that he liked to play jokes on people and, perhaps, he was playing a prank at the time of the shooting.

Hamilton County Prosecutor Joseph Deters commented, “This is a sad situation but the clerk acted in self-defense. We will never know what Mr. Aboueliallya was thinking or trying to do that night but we do know from the video and police investigation what the clerk faced. Although the investigation revealed that the victim was a nice person who, in all likelihood, had no intention of robbing the store, the clerk did not have the benefit of that information.

The Cincinnati Police Department Homicide Unit worked hard on this case to make sure that we had all of the necessary evidence to present to the Grand Jury. In this case, their investigation revealed that no crime had occurred and no charges are appropriate. The Cincinnati Police Department worked just as hard to confirm the clerk’s self defense claim as they normally do to prove someone’s guilt.”

Acting Cincinnati Police Chief Paul Humphries commented, “Our department works hard on every investigation to make sure that we have all of the evidence necessary to solve the case. After an extensive and thorough investigation, the evidence in this case was presented to the Hamilton County Grand Jury. We respect their decision.”